Petition

Supreme Court, U.S.
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No. 81-1803

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1981

CITY OF STAMFORD,

Petitioner,

v.

THEODORE IEVA,

Respondent.

PETITION OF THE CITY OF STAMFORD FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

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QUESTIONS PRESENTED FOR REVIEW

1. May an official policy, custom or usage of a municipality be inferred to have existed, on the date of an incident, where such inference is attributed to a "pattern" said to consist of a single prior event, and an event which occurred more than one year after the complained-of episode?

2. If a municipality fails to discipline one police officer for alleged misconduct, may a "causal link" be deemed to exist between such failure, and a subsequent incident of misconduct, by another officer, where the second officer neither knew of the prior episode, nor of the failure to discipline the first officer, and the evidence fails to establish knowledge of either incident by the governing body of the police department?

3. Does the governing body of a municipal police department have a constitutional duty to discipline every police officer charged wtih the excessive use of force to avoid imposition of § 1983 liability for any subsequent similar occurrence?

4. What is the minimum level of entity culpability required for the imposition of money damage liability, on a municipality, under § 1983?

5. Does the proscription of the use of a specific police weapon or tactic by a federal court constitute an undue interference in the operation of a municipal police department?

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CITY OF STAMFORD,

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v.

THEODORE IEVA,

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PETITION OF THE CITY OF STAMFORD FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

To The Honorable, The Chief Justice Of The United States, And The Associate Justices Of The Supreme Court Of The United States:

The petitioner, the City of Stamford, appellant in the court below, respectfully prays that a writ of certiorari issue to review the judgment of the United States Court of Appeals for the Second Circuit entered in the above case on December 30, 1981. That decision affirmed, in part, and reversed, in part, the judgment of the United

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[1] The only other party to the proceedings below was Thomas Grabowski, a defendant-appellant.

States District Court for the District of Connecticut entered in the above case on January 28, 1981.

OPINIONS BELOW

The judgment of the United States District Court for the District of Connecticut, upon a jury verdict, was entered without opinion.

The unreported Order of the United States Court of Appeals for the Second Circuit, and the judgment entered thereon, affirming the judgment for compensatory and punitive damages, as against the defendant, Thomas Grabowski, affirming the judgment for compensatory damages and reversing the judgment for punitive damages, as against the defendant, City of Stamford, are set forth at page 1a of the Appendix.

JURISDICTION

The Order and judgment of the United States Court of Appeals for the Second Circuit was entered on December 30, 1981 (1a). The jurisdiction of the Supreme Court of the United States is invoked pursuant to 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Title 42, § 1983 of the United States Code provides:

> Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory, subjects or causes to be subjected, any citizen of the United States or any other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable

to the party injured in an action at law, suit in equity, or other proper proceeding for redress.

STATEMENT OF THE CASE

The plaintiff commenced this action in the United States District Court, for the District of Connecticut, against Thomas Grabowski and Robert Ragsdale, as police officers employed by the City of Stamford, Connecticut [hereinafter referred to as "the City"], Joseph Perna, John Battiste, and Edward Wienski, Jr., as members of the Police Commission of the City, and the City, for alleged violations of his constitutional and civil rights.

The action asserted claims under 42 U.S.C. §§ 1983, 1985 and 1988, with jurisdiction founded on 28 U.S.C. § 1343(3); claims under several amendments to the United States Constitution, with jurisdiction founded on 28 U.S.C. § 1331; and claims under Connecticut tort law pursuant to the pendent jurisdiction of the court.

The defendant, Ragsdale, obtained a directed verdict in his favor, as did the defendants, Perna, Battiste and Wienski. The plaintiff, during trial, abandoned any claims founded on a conspiracy theory, under 42 U.S.C. § 1985, or otherwise; abandoned any claims founded on unlawful detention; and, abandoned any claims against the City, founded on Connecticut tort law. The City's motion for a directed verdict was denied.

In answering interrogatories put to it, the jury found that the individual police officer defendants had probable cause for the arrest of the plaintiff; that the plaintiff had assaulted the defendant, Grabowski, by striking him in the face; and, that Grabowski used excessive force in arresting the plaintiff, and was negligent in the use of a pocket stick.

In answering further interrogatories, the jury found that the City was either grossly negligent, or deliberately indifferent, in the hiring, training, supervision, control or discipline of the defendant, Grabowski, and that this was the proximate cause of plaintiff's complaints in this action.

The jury awarded plaintiff $7,500.00 compensatory damages and $5,000.00 punitive damages against the defendant, Grabowski, and $115,000.00 compensatory damages, and $100,000.00 punitive damages against the City. Judgment was entered upon the verdicts.

The City's motion for judgment notwithstanding the verdict was denied. The City and Officer Grabowski appealed, and the United States Court of Appeals for the Second Circuit affirmed the judgment against Officer Grabowski, and affirmed the judgment against the City for compensatory damages, but reversed as to punitive damages, in light of the decision in *City of Newport v. Fact Concerts, Inc.*, 101 S. Ct. 2748 (1981).

The pertinent facts affecting the questions presented for review in this matter are that on January 6, 1974, the plaintiff, and one Doris Baran, now Mrs. Ieva, had spent the evening at a club where they both consumed a quantity of alcoholic beverages.

In the early morning hours of January 7, 1974, the plaintiff, with Miss Baran as a passenger, was operating an automobile owned by her. Officers Grabowski and Ragsdale, while on patrol, observed Doris Baran make a middle-finger gesture to them, and heard the horn sound on her automobile. Believing the gesture to be a misdemeanor committed in their presence, the officers pursued her vehicle for a short distance, causing it to come to a stop, off the highway, proceeded to the

passenger door of the automobile and commenced the procedure to arrest Miss Baran.

During these proceedings, Mr. Ieva exited the automobile, and approached the officers, attempting to engage them in conversation. Officer Grabowski spoke to Mr. Ieva asking him to step back, at which point Mr. Ieva struck Officer Grabowski in the face, causing him a bloody nose.

A scuffle ensued between Officer Grabowski and Mr. Ieva requiring efforts to subdue Mr. Ieva. The officer initially attempted to strike the plaintiff with his hands, but failed. He then produced his pocket stick and struck a glancing blow to his arm. Not having subdued Mr. Ieva, the officer aimed a blow, with the stick, at Mr. Ieva's shoulder, which missed and struck plaintiff in the head.

As a result, Mr. Ieva suffered a fracture of the skull, related lacerations, a cerebral contusion, Grand Mal seizures, and other consequences, was hospitalized on two occasions, underwent cranial surgery, and an extended course of medical care for his injuries. Plaintiff claims permanent injuries as a result of this incident.

Mr. Ieva was arrested, as a result of said incident, and was subsequently acquitted, in a jury trial, of all charges lodged against him.

Plaintiff made no written charges to the police commission against Officer Grabowski, nor did he take steps seeking disciplinary proceedings against him.

In the trial of this action, no evidence was offered to show any other act of misconduct by Officer Grabowski.

Evidence was offered during the trial that the defendant, Ragsdale, had been accused of misconduct, with a

police baton, approximately one month before Mr. Ieva's arrest. A supervisory member of the police department discussed this with Officer Ragsdale, but no formal disciplinary proceedings were instituted. The matter did not come to the attention of the police commission at or before Mr. Ieva's arrest.

No evidence was offered during the trial to show that Officer Grabowski, on January 7, 1974, knew of either the prior incident involving a police baton, or of the fact that no disciplinary proceedings were instituted as a result of that event.

Evidence was also offered, over the City's objection, of another use, of a police baton, over one year after Mr. Ieva's arrest, resulting in no disciplinary proceedings. No evidence was offered to show that this subsequent incident was brought to the attention of the police commission.

REASONS RELIED ON FOR ALLOWANCE OF THE WRIT

The decision of the Court of Appeals for the Second Circuit, insofar as it held that a City may be liable to respond in money damages under 42 U.S.C. § 1983, upon the slender evidence before it, is in conflict with the decisions of other Courts of Appeal in the following cases: *Landrigan v. City of Warwick*, 628 F.2d 736 (1st Cir. 1980); *Black v. Stephens*, 662 F.2d 181 (3d Cir. 1981), *petition for cert. filed, sub nom. Stephens v. Black*, 50 U.S.L.W. 3550 (U.S. Jan. 12, 1982) (No. 81-1239); *Com. of Pa. v. Porter*, 659 F.2d 306 (3d Cir. 1981), *petition for cert. filed, sub nom. Porter v. Pennsylvania*, 50 U.S.L.W. 3175 (U.S. Sept. 22, 1981) (No. 81-465); *Herrera v. Valentine*, 653 F.2d 1220 (8th Cir.

1981); and, *McClelland v. Facteau,* 610 F.2d 693 (10th Cir. 1979).

Moreover, the decision below is in conflict with other decisions of the Second Circuit; namely, *Doe v. New York City Dep't of Social Services,* 649 F.2d 134 (2d Cir. 1981), and *Turpin v. Mailet,* 619 F.2d 196 (2d Cir.), *cert. denied, sub nom. Turpin v. City of West Haven,* 449 U.S. 1016 (1980) (*Turpin III*).

Insofar as the decision below determined, *sub silentio,* the existence of a causal link between the "pattern" which it found existed, and the arrest of January 7, 1974, in the absence of any evidence that the arresting officer knew either of the prior incident of misconduct, or of the lack of discipline, the same is in conflict with the decision of this Court in *Rizzo v. Goode,* 423 U.S. 362 (1976).

To the extent that the decision below held the City culpably responsible, based upon the minimal evidence offered, the same is in conflict with decisions of several United States District Courts, including *Smith v. Hill,* 510 F. Supp. 767 (D. Utah 1981); *Cerbone v. County of Westchester,* 508 F. Supp. 780 (S.D. N.Y. 1981); *Hassell v. City of Philadelphia,* 507 F. Supp. 814 (E.D. Pa. 1981); *Shirey v. Bensalem Township,* 501 F. Supp. 1138 (E.D. Pa. 1980); *Jones v. City of Philadelphia,* 491 F. Supp. 284 (E.D. Pa. 1980); *Edmonds v. Dillin,* 485 F. Supp. 722 (N.D. Ohio 1980); *Popow v. City of Margate,* 476 F. Supp. 1237 (D. N.J. 1979); and, *Leite v. City of Providence,* 463 F. Supp. 585 (D. R.I. 1978).

The decision below also appears to represent an undue expansion, or interpretation, of this Court's teaching in *Monell v. Department of Social Services of the City of New York,* 436 U.S. 658 (1978), to the extent that it

found a policy, custom or usage from the scant evidence offered.

This Court has not determined whether the governing body of a municipal police department has a constitutional duty to discipline all officers charged with misconduct, and whether failure to do so will result in § 1983 liability for damages in all similar subsequent cases.

In *Monell,* this Court observed that it did not address "what the full contours of municipal liability under § 1983 may be", leaving further development of this jurisprudence for another day. This invitation to future exposition on § 1983 entity liability was reinforced by Justice Powell's concurring comments as to the existence of substantial line-drawing problems yet to be resolved.

In light of the volume of § 1983 litigation involving municipalities throughout this nation now pending before federal courts, and in light of the importance of the questions raised, further clarification by this Court is now both timely and essential.

ARGUMENT

I.

CERTIORARI SHOULD BE GRANTED TO RESOLVE A CONFLICT IN THE CIRCUITS AS TO WHEN A MUNICIPAL POLICY, CUSTOM OR USAGE MAY BE FOUND TO EXIST.

The fountainhead of current jurisprudence on municipal liability under 42 U.S.C. § 1983 is *Monell,* in which cities were rendered liable when an allegedly unconstitutional action is demonstrated to implement or execute a policy, custom or usage either officially adopted and promulgated, or established by officials functioning at the policy-making level.

The *Monell* standard is an appropriate one, being founded on a comprehensive review of the legislative history of § 1983, which clearly indicated congressional intent to impose liability only upon actual participants in the wrongdoing, or those who are directly blameworthy. *Monell*, at 692, n.57; Note, *Municipal Liability Under Section 1983: The Meaning of "Policy or Custom"*, 79 Colum. L. Rev. 304, 318 (1979) [hereinafter cited as *Municipal Liability*].

Thus, *Monell* announced a fault basis for governmental liability, rejecting both *respondeat superior* and strict liability concepts.

Subsequent to *Monell*, the lower federal courts have developed this newly recognized statutory cause of action pursuant to the invitation in *Monell*, at 695 and 714 (Powell, J., concurring).

In the majority of the post-*Monell* decisions, the lower courts hew closely to the *Monell* standard. Many decisions afford relief only where affirmative entity action is convincingly and directly linked to the asserted deprivation. *Wise v. Bravo*, 666 F.2d 1328 (10th Cir. 1981); *Powe v. City of Chicago*, 664 F.2d 639 (7th Cir. 1981); *Harris v. City of Roseburg*, 664 F.2d 1121 (9th Cir. 1981); *McLaughlin v. City of LaGrange*, 662 F.2d 1385 (11th Cir. 1981); *Black*; *Leonhard v. United States*, 633 F.2d 599 (2d Cir. 1980); *Huemmer v. Mayor & City Council of Ocean City*, 632 F.2d 371 (4th Cir. 1980); *Landrigan*; *Marrero v. City of Hialeah*, 625 F.2d 499 (5th Cir. 1980); *Wanger v. Bonner*, 621 F.2d 675 (5th Cir. 1980); *Quinn v. Syracuse Model Neighborhood Corp.*, 613 F.2d 438 (2d Cir. 1980); *Wilson v. Beebe*, 612 F.2d 275 (6th Cir. 1980); *Levan v. Fullington*, 612 F.2d 386 (8th Cir. 1980); *Henzel v. Gerstein*, 608 F.2d 654 (5th Cir. 1979); *Reeves v. City of Jackson*, 608

F.2d 644 (5th Cir. 1979); *Dominguez v. Beame*, 603 F.2d 337 (2d Cir. 1979); *DesVergnes v. Seekonk Water District*, 601 F.2d 9 (1st Cir. 1979); *Coffy v. Multi-County Narcotics Bureau*, 600 F.2d 570 (6th Cir. 1979); *Garner v. Memphis Police Department*, 600 F.2d 52 (6th Cir. 1979); *Heimbach v. Village of Lyons*, 597 F.2d 344 (2d Cir. 1979); *Cerbone*; *Hassell*; *Shirey*; *Landesman v. City of New York*, 501 F. Supp. 837 (E.D. N.Y. 1980); *Armstrong v. Borie*, 494 F. Supp. 902 (E.D. Pa. 1980); *Jones*; *Daughtry v. Arlington County, Va.*, 490 F. Supp. 307 (D. D.C. 1980); *Moomey v. City of Holland*, 490 F. Supp. 188 (W.D. Mich. 1980); *Chappelle v. Chase*, 487 F. Supp. 843 (E.D. Pa. 1980); *Thompson v. State of New York*, 487 F. Supp. 212 (N.D. N.Y. 1979); *Knight v. Carlson*, 478 F. Supp. 55 (E.D. Cal. 1979); *Meyer v. Niles Township, Ill.*, 477 F. Supp. 357 (N.D. Ill. 1979); *Popow*; *Mayes v. Elrod*, 470 F. Supp. 1188 (N.D. Ill. 1979); *Shuman v. City of Philadelphia*, 470 F. Supp. 449 (E.D. Pa. 1979); *Randle v. Gokey*, 469 F. Supp. 452 (N.D. Ohio 1979); *Bradford v. Edelstein*, 467 F. Supp. 1361 (S.D. Tex. 1979); *Gross v. Pomerleau*, 465 F. Supp. 1167 (D. Md. 1979); *Stringer v. City of Chicago*, 464 F. Supp. 887 (N.D. Ill. 1979); *Zaragoza v. City of San Antonio*, 464 F. Supp. 1163 (W.D. Tex. 1979); *Schramm v. Krischell*, 84 F.R.D. 294 (D. Conn. 1979); *Leite*; *Smith v. Ambrogio*, 456 F. Supp. 1130 (D. Conn. 1978).

The essential justification for visiting liability upon municipalities, under § 1983, is to provide for redress of governmental abuses. Care should be taken, at all times, to preserve a distinction between general state law tort claims, and those allowed under § 1983, since § 1983 was not intended to supplant state law tort jurisprudence. These concepts have recently been underscored in *Parratt v. Taylor*, 451 U.S. 527 (1981).

In *Turpin v. Maillet*, 579 F.2d 152 (2d Cir.) (*Turpin I*), *vacated, sub nom. West Haven v. Turpin*, 439 U.S. 974 (1978), *on remand, Turpin v. Mailet*, 591 F.2d 426 (2d Cir. 1979) (*Turpin II*); *Turpin v. Mailet*, 619 F.2d 196 (2d Cir.) (*Turpin III*), *cert. denied, sub nom. Turpin v. West Haven*, 449 U.S. 1016 (1980); the Second Circuit expanded the *Monell* teaching to impose liability where an entity authorized, sanctioned or ratified constitutionally offensive conduct by its employees, through its officials functioning at the policy-making level.

From these decisions, one unifying precept emerges; namely, that entity liability will be imposed where an identified policy of the entity either produces an immediate harm, or an unreasonable risk of foreseeable constitutional deprivations. Schnapper, *Civil Rights Litigation After Monell*, 79 Colum. L. Rev. 213, 235 (1979) [hereinafter cited as Schnapper].

The court below dealt with issues not of affirmative entity policy-making, but of whether inaction, or passive toleration of prior employee misconduct, might be elevated to the level of governmental policy sufficient to sustain a § 1983 claim against the entity itself.

This Court has stated the basic principles governing such matters, noting that there is no constitutional duty on municipalities to eliminate all future police misconduct, holding that the deprivations alleged must be affirmatively linked to a governmental policy, and stating that the complained-of harm must be produced by affirmative acts by the responsible authorities. *Rizzo*, at 375–77.

The lower federal courts have consistently followed these doctrines in cases involving allegations of inaction on the part of the entity. *See Com. of Pa.*, at 324; *Landrigan*, at 747; *Watson v. Interstate Fire & Cas. Co.*,

611 F.2d 120 (5th Cir. 1980); *Kostka v. Hogg*, 560 F.2d 37 (1st Cir. 1977); *Lewis v. Hyland*, 554 F.2d 93 (3d Cir.), *cert. denied*, 434 U.S. 931 (1977); *Jones*; *Knight*; *Meyer*; *Popow*; *Randle*; *Leite*; *Schramm*; *Wanger*; *Wilson*. These decisions instruct that it is reasonable to infer a policy or custom of sanctioning or ratifying deprivations of rights where the entity fails to act to correct such abuses in the face of prior persistent and widespread patterns or practices, existing over a period of time. *See* Schnapper, at 229, 239; *Municipal Liability*, at 317-18.

It is clear that only on extremely rare occasions will a governmental policy be inferred from a single episode. *See McLaughlin*; *Singleton v. City of New York*, 632 F.2d 185 (2d Cir. 1980); *Turpin III*; *Ownes v. Haas*, 601 F.2d 1242 (2d Cir.), *cert. denied, sub nom. County of Nassau v. Owens*, 444 U.S. 980 (1979); *Knight*; *Randle*; *Stringer*; *Schramm*. *But cf. Popow* (rejecting *Owens*).

Questions of policy, flowing from single occurrences, are closely correlated with the gravity of the asserted deprivation, and the degree of entity culpability. The more egregious the event, the greater the probability the same was accomplished pursuant to policy or custom. *Owens*; *Leite*; *Popow*; Schnapper, at 230; *Municipal Liability*, at 315-19.

Viewed most favorably to the respondent, the evidence offered to establish the existence of a policy or custom, effective on the date of his arrest, failed to reflect any pervasive pattern of prior episodes, with knowledge of which the City ought to be chargeable.

Where unique knowledge is required to establish foreseeability elements, as in the case of a police officer likely to be a repetitive excessive-force offender, the

proof must convincingly establish possession of that knowledge by the policy-level body before its failure to act may be equated with a governmental policy of sanctioning or ratifying such conduct. This view has recently been expressed by this Court in *Martinez v. State of California*, 444 U.S. 277, 285 (1980), and by lower courts in *Black*; *Com. of Pa.*; *Herrera*; *Landrigan*; and *McClelland*. This position is also supported by the commentators. Schnapper, at 237.

Thus, the decision below, inferring the existence of a policy of sanctioning the use of excessive force, absent any evidence whatsoever that the policy-level governing body of the police department had knowledge of such miscreance, is in serious conflict with decisions of this Court, and of other circuits.

The Second Circuit has heretofore required that such knowledge, by the entity, be clearly demonstrated in order to trigger its duty to respond, where entity inaction is the touchstone of asserted municipal liability. *Doe*, at 145; *Turpin III*, at 202-3.

The paucity of evidence to support the inference of policy or custom is perhaps a rational explanation for resort by the court below to the use of Rule § 0.23 of its Rules (6a), declaring its decision not to be a formal opinion of the court, and precluding its citation, or use, in the Second Circuit, or elsewhere, in unrelated cases.

Based upon the existence of these conflicts, and misapplied standards, this Court ought to grant full review of the decision below.

II.

CERTIORARI SHOULD BE GRANTED TO RESOLVE A CONFLICT BETWEEN THE DECISION BELOW AND *RIZZO v. GOODE.*

Rizzo teaches that in order for liability to be visited upon a municipality, under § 1983, a policy of the entity must be clearly established, and must then be affirmatively linked with the constitutional deprivation asserted. By way of illustration, reference was made to *Allee v. Medrano,* 416 U.S. 802 (1974), and *Hague v. CIO,* 307 U.S. 496 (1939), in each of which pervasive prior patterns of misconduct existed. As this Court noted in *Rizzo,* the mere invocation of the word "pattern" would not suffice.

The Second Circuit did not, in this case, articulate any finding of an affirmative link between the policy, or custom, which it inferred, and the misconduct at issue. To that extent, the decision below is in conflict with *Rizzo.*

No evidence was offered to demonstrate that the officer charged with misconduct in this case knew either of the prior incident, or that the officer involved was not disciplined. Absent such knowledge, no causal link can be established, founded on the entity's lack of response to the earlier episode, since the officer could not have been caused to act by matters of which he had no knowledge.

Similarly, the officer charged in an episode on January 7, 1974 could not have been motivated on that date by events which did not occur until over one year later.

In the absence of such a causal link the imposition of liability on the entity appears to be founded on *respondeat superior* concepts abjured in *Monell.* Peters,

Municipal Liability After Owen v. City of Independence and *Maine v. Thiboutot,* 13 Urb. Law. 407, 434-9 (1981) [hereinafter cited as Peters].

This conflict between the decision below and both *Rizzo* and *Monell* requires review by this Court.

III.

CERTIORARI SHOULD BE GRANTED SINCE THE SECOND CIRCUIT DECIDED IMPORTANT QUESTIONS OF FEDERAL LAW WHICH HAVE NOT BEEN, BUT SHOULD BE, SETTLED BY THIS COURT.

A. The Degree, or Level of Entity Culpability Required for Imposition of Money Damage Liability, Under § 1983 Has Not Been Resolved by This Court.

The decision below concluded that the City, as of January 7, 1974, had culpably authorized or sanctioned the use of excessive force by members of its police department, which conclusion was drawn from evidence of a single prior event, of which the City's Police Commission was not aware.

This Court, in *Monell,* had no occasion to, and did not, consider or discuss the minimum level of entity culpability required for the imposition of § 1983 liability.

Several United States District Courts have considered this question, and have formulated stringent standards to be satisfied before awarding damages against governmental entities.

In *Smith v. Hill,* the court required evidence of near recklessness, or shockingly unjustified and unreasonable action. In *Leite* the court spoke of entity action which was reckless, or grossly, palpably and culpably negligent.

The court in *Edmonds,* rejecting standards of gross negligence, and deliberate indifference, fashioned a standard of recklessness or shockingly unjustified and unreasonable action. Similar conceptual reasoning was applied in *Spriggs v. City of Chicago,* 523 F. Supp. 138, 142-44 (N.D. Ill. 1981); *Cerbone*; *Hassell*; *Shirey*; *Jones*; and *Popow. Cf. Hays v. Jefferson County, Ky.,* 668 F.2d 869 (6th Cir. 1982) (rejecting negligence standard).

To the extent that the Second Circuit substantially relaxed this standard, the same is not only in conflict with these district courts, but has also settled an important question of federal law which has not been, but ought to be, resolved by this Court. See Peters at 430-31.

In light of the fact that litigation under § 1983, in general, and as to municipalities, and other governmental entities, in particular, now occupies a considerable portion of the federal courts' dockets [*See Maine v. Thiboutot,* 448 U.S. 1, 27, n.16 (1980) (Powell, J., dissenting)], this Court should speak further on this issue for the guidance of all governmental units.

B. This Court Has Not Determined Whether the Governing Body of a Municipal Police Department Has a Constitutional Duty to Discipline All Officers Charged with Misconduct, or Be Visited with § 1983 Liability in All Future Cases.

By the decision below, the Second Circuit has, in effect, resolved that if a municipality's police commission fails to discipline a single police officer, accused of the use of excessive force, the entity will be visited with money damage liability, under § 1983, upon the occasion of a future single episode, as a direct result of the initial failure to act.

This appears to be in sharp contrast with this Court's teaching that no constitutional duty is imposed upon municipalities to eliminate all future police misconduct. *Rizzo,* at 376.

Moreover, the court below appears to specifically proscribe the use of the police baton, or pocket stick, against the heads of citizens when overcoming non-lethal resistance to arrest. This, too, appears to run counter to the instruction in *Rizzo,* at 378-80, concerning undue intervention by federal courts in the daily affairs of local police departments. Underscoring the importance of this issue is *Lyons v. City of Los Angeles,* 656 F.2d 417 (9th Cir. 1981), *cert. granted, sub nom. City of Los Angeles v. Lyons,* 50 U.S.L.W. 3668 (U.S. Feb. 23, 1982) (No. 81-1064).

Municipalities are concerned that decisions, such as that below, affecting the use of specific police weapons and tactics, have a chilling effect on police officers inhibiting their use of the same, based upon liability concerns, thereby potentially risking physical harm to themselves, and their fellow officers.

Petitioner urges that these important federal questions be resolved by this Court.

CONCLUSION

For the above reasons, it is respectfully requested that this Honorable Court issue a writ of certiorari to review the judgment of the United States Court of Appeals for the Second Circuit.

Respectfully submitted,

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March 30, 1982

Appendix

APPENDIX A

N.B. Since this statement does not constitute a formal opinion of this court and is not uniformly available to all parties, it shall not be reported, cited or otherwise used in unrelated cases before this or any other court.

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

Nos. 81-7134, 81-7212, and 81-7172

[Filed: Dec. 30, 1981]

THEODORE IEVA,
Plaintiff-Appellee-Cross-Appellant,

v.

THOMAS GRABOWSKI, *ET AL.*,
Defendants-Appellants-Cross-Appellees.

At a stated Term of the United States Court of Appeals for the Second Circuit, held at the United States Courthouse in the City of New York, on the 30th day of December, one thousand nine hundred and eighty-one.

Present: HONORABLE WILFRED FEINBERG,
Chief Judge,
HONORABLE WALTER R. MANSFIELD,
HONORABLE JON O. NEWMAN,
Circuit Judges.

ORDER

The City of Stamford and Police Officer Thomas Grabowski appeal from a judgment entered on January 28, 1981 in the District of Connecticut (T. F. Gilroy Daly, Judge) following a jury verdict finding them liable to plaintiff Theodore Ieva for compensatory and punitive damages under 42 U.S.C. § 1983 (1976). The suit arises from an episode in which Grabowski, while arresting Ieva on minor charges, struck him repeatedly on the head with a short version of a night stick known as a pocket stick. The jury awarded the plaintiff $7,500 compensatory and $5,000 punitive damages against Grabowski, and $115,000 compensatory and $100,000 punitive damages against the City. We affirm the judgment with the exception of the award of punitive damages against the City.

1. On appeal, Grabowski challenges only the punitive damages award against him. Although acknowledging that the plaintiff's § 1983 claim for use of excessive force is not subject to the good faith defense available in suits alleging violations of the Fourth Amendment, *see Pierson v. Ray*, 386 U.S. 547, 557 (1967), Grabowski argues that an award of punitive damages is precluded by the jury's finding, in answer to Interrogatory 9, that he had a good faith belief that his use of a pocket stick to subdue the plaintiff was lawful.

Under standard formulations, a defense of good faith requires both subjective belief in the lawfulness of an action and a basis for the belief that is objectively reasonable under all the circumstances. The jury found, however, that Grabowski's use of force was excessive; that is, that he used more force than was reasonably necessary under the circumstances. Thus, even if he subjectively believed that he acted lawfully, using only

necessary force, the fact that his belief was not objectively reasonable prevents him from satisfying the objective component of the good faith defense. The jury's finding of good faith in Interrogatory 9 does not contradict this logic. By its terms, Interrogatory 9 asked whether the officer's negligent *use* of his pocket stick was nevertheless in good faith, but did not specifically relate to the separate finding of excessive force. The jury could reasonably have concluded that Grabowski's initial decision to use the stick was taken in good faith, but that the subsequent *manner* of that use—the number of blows, the force of the blows, the striking of the head—justified imposing punitive damages. A jury's special verdicts are not to be disturbed if they can be harmonized under any reasonable interpretation. *Gallick v. Baltimore & Ohio Railroad,* 372 U.S. 108, 119 (1963).

Grabowski also contends that the jury instructions erroneously lowered the standards governing punitive damages by including "grossly negligent" among the phrases to describe behavior that would support a punitive award. Though the reference to gross negligence was ill-advised, we do not believe the passing reference to the phrase deflected the jury's attention from the proper standard, which was adequately set forth in the instructions. *See Stolberg v. Board of Trustees,* 474 F.2d 485, 489 (2d Cir. 1973). The phrase "grossly negligent" was followed by the alternative formulation "or failed to have reasonable regard for the substantial and unjustifiable risk that grave injury would result." Furthermore, the instruction was introduced by the statement that an award of punitive damages "should be based on whether you find that . . . Grabowski . . . engaged in intentional acts in gross disregard of the plaintiff's constitutional rights." These instructions

taken as a whole conveyed the proper emphasis on willfulness or recklessness. We see no reason to disturb the jury's modest award of punitive damages against Grabowski.

2. The City of Stamford challenges the award of compensatory damages against it, arguing that there was insufficient evidence that it authorized, sanctioned, or ratified any unconstitutional actions by its police officers. *See Monell v. Dep't of Social Services*, 436 U.S. 658 (1978). We are satisfied that the evidence was minimally sufficient to permit the issue of the City's liability to reach the jury and to support the resulting verdict.[1] There was evidence of other episodes, one before and one after the incident involving Ieva, in which Stamford police officers struck people on the head with pocket sticks. Although slender evidence of a pattern of police misconduct culpably authorized or acquiesced in by the City, these incidents permitted an inference of municipal policy or custom, *see Owens v. Haas*, 601 F.2d 1242 (2d Cir. 1979); *Smith v. Ambrogio*, 456 F. Supp. 1130 (D. Conn. 1978), to tolerate police officers' striking heads with pocket sticks when overcoming nonlethal resistance to arrest, a tactic that the evidence permitted the jury to find posed an excessive risk of inflicting serious injury.

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[1] Though it has not been challenged on appeal, we note the inadvisability of asking the jury to assess the amount of compensatory damages separately with respect to the two defendants. By the time the case went to the jury, Grabowski and the City faced liability for inflicting the same injury. The jury should simply have been asked to determine the amount of damages suffered by Ieva. Of course, where punitive damages are available, they must be separately assessed against each defendant.

3. The additional award against the City of punitive damages must be set aside. *City of Newport v. Fact Concerts, Inc.*, 101 S. Ct. 2748 (1981), precludes awards of punitive damages against municipalities in § 1983 suits. The trial court and the parties were well aware that *City of Newport* was pending before the Supreme Court and that the eventual decision would govern Stamford's liability for punitive damages. Since this case comes to us on direct appeal, *City of Newport* requires us to set aside the punitive award against the City.

We find appellants' other claims to be without merit. The judgment of the District Court is affirmed, except for the award of punitive damages against the City of Stamford, which is set aside.

/s/ Wilfred Feinberg, Chief Judge

/s/ Walter R. Mansfield, Circuit Judge

/s/ Jon O. Newman, Circuit Judge

APPENDIX B

RULES OF THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

§ 0.23. Dispositions in Open Court or by Summary Order:

The demands of an expanding caseload require the court to be ever conscious of the need to utilize judicial time effectively. Accordingly, in those cases in which decision is unanimous and each judge of the panel believes that no jurisprudential purpose would be served by a written opinion, disposition will be made in open court or by summary order.

Where a decision is rendered from the bench, the court may deliver a brief oral statement, the record of which is available to counsel upon request and payment of transcription charges. Where disposition is by summary order, the court may append a brief written statement to that order. Since these statements do not constitute formal opinions of the court and are unreported and not uniformly available to all parties, they shall not be cited or otherwise used in unrelated cases before this or any other court.

Opposition

Office - Supreme Court, U.S.
FILED
MAY 6 1982
ALEXANDER L. STEVAS,
CLERK

NO. 81-1803

In The

Supreme Court of the United States

OCTOBER TERM, 1981

CITY OF STAMFORD,
Petitioner

V.

THEODORE IEVA,
Respondent

BRIEF OF THEODORE IEVA IN OPPOSITION TO PETITION FOR CERTIORARI

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May 5, 1982

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STATEMENT OF THE CASE

The petitioner's statement of the case is incomplete. At trial, the City of Stamford made no objection to the standards for municipal liability articulated by the trial court in its charge to the jury. The issue before the Court of Appeals, accordingly, was the narrow one of whether, in light of the record, the jury could have found or inferred sufficient municipal conduct to justify a finding of liability under 42 U.S.C. §1983. There was far more evidence of direct municipal responsibility than is acknowledged in the petition for certiorari.

This action, commenced in the District of Connecticut, sought redress against two police officers, the three members of the Stamford Police Commission, and the City of Stamford for the brutal beating of the plaintiff on January 7, 1974. The action was tried before Hon. T. F. Gilroy Daly, Jr. and a jury in three separate stages: first, the liability of the defendant police officers, Thomas Grabowski and Robert Ragsdale; second, the liability of the municipal defendants, the police commissioners and the City of Stamford; third, damages.

In the first phase of the trial, the jury found, in response to special interrogatories, that Officer Thomas Grabowski in striking the plaintiff used greater force than was reasonably required under the circumstances, and also that he used his pocket stick in a negligent or careless manner. There was evidence that Grabowski delivered at least two and possibly more blows to Theodore Ieva's head. The blows were of sufficient force to penetrate Mr. Ieva's scalp to a depth of one-half inch, to fracture his skull in three places, and to bruise his brain. At the time he struck the plaintiff, defendant Grabowski was in a position of mastery, and had available several less dangerous methods of subduing the plaintiff. As a result of the beating the plaintiff suffered several grand mal epileptic seizures, was hospitalized for nearly a month, and required delicate and life-threatening brain surgery. He now suffers from post-traumatic epilepsy — a permanent, incurable condition. He will require anticonvulsive medications and periodic medical examinations for the balance

of his life, and has an elevated risk of spontaneous epileptic seizures. He will probably require further hospitalization, has the diminished life expectancy of an epileptic, and has permanent neurological deficits.

Having found that plaintiff's civil rights were violated by Officer Grabowski's use of excessive force, the jury in the second phase of the trial focused on the City of Stamford's liability for that misconduct. The plaintiff established that blows delivered to the head with a pocket stick — such as those by Officer Grabowski in this case — are potentially lethal. Indeed, an FBI training manual introduced into evidence expressly cautions that blows to the head are improper because "the opponent could be killed instead of being brought under control." Nevertheless, Officer Grabowski, who had been a member of the Stamford Police Department for three years at the time of this beating, testified that he had received *no* instruction in the use of the pocket stick. Moreover, the City of Stamford had no manual, rules or regulations concerning the proper use of the pocket stick. Under these circumstances, the jury could reasonably have concluded that the City of Stamford's training of Officer Grabowski was grossly deficient in a manner proximately related to this beating of the plaintiff.

The jury could also have found that Officer Grabowski was hired by the City of Stamford notwithstanding his documented propensity for violence. Pursuant to official policy, Stamford police candidates, including defendant Grabowski, were subjected to psychological screening under the auspices of the City Personnel Department. Although the report on Grabowski's screening examination rated him "acceptable" it disclosed that:

> This is a rather stubborn, opinionated and rigid individual of about average intelligence. He has very little insight into either his own motivations or those of other people. For the most part, he is unimaginative and phlegmatic, at least until someone challenges one of his pet generalizations on life — *when that happens,*

> *he can be verbally aggressive and seems capable of physical violence as well.* [Emphasis added.]

A background report included in the psychological screening process also concluded that Thomas Grabowski was "empty and schizoid" and suggested that he might be unfit for night duty.

Expert testimony at the trial established that an individual with Grabowski's personality profile has a substantially higher propensity for violence than normal and would behave violently if he had a weapon readily at hand. Although the expert testimony was that the contents of the screening report demanded additional intensive evaluation and scrutiny of Grabowski's eligibility and performance, the City did not provide it. Pursuant to municipal policy, candidates were rated "unacceptable" for police duty only if the examination disclosed "clear and convincing proof beyond a reasonable doubt" of clinical psychopathology, that is, a serious psychological disorder. The significant contents of the screening report were totally ignored in the training and supervision of, and assignments provided to Officer Grabowski. Thus the jury could have found that in light of the officer's known predisposition for violence, his beating of the plaintiff was the predictable consequence of municipal policy and custom concerning hiring, training, and screening procedures.

There was also evidence of an official policy and custom in the Stamford Police Department in January, 1974, which authorized or condoned police officers' striking unarmed civilians — such as the plaintiff — in the head with a pocket stick. Despite their responsibility to supervise and discipline police officers, the chief and supervisory officers in the Stamford Police Department not only refused to discipline policemen who engaged in this potentially lethal conduct, but also refused to investigate citizen complaints about such practice. One month before the Ieva beating, Officer Robert Ragsdale (Grabowski's partner and co-defendant in this action) struck an unarmed Stamford resident four times in the head with a pocket stick during a motor vehicle arrest. When the victim's wife com-

plained to the Police Department a few days later, she was referred to Major McDonald, a senior police official, who informed her, in effect, that no serious investigation was required and no disciplinary action would be taken. She was also specifically advised that there was no other avenue for her complaint and that the matter was concluded. Officer Ragsdale corroborated at the trial that there was no investigation arising out of this episode, no discipline, and no additional training in the use of a pocket stick. The jury could have found that Major McDonald's response constituted not merely inaction, but official endorsement of the use of a pocket stick to the head of an unarmed civilian.

Similarly, supervisory Stamford police officers were aware of the beating of the plaintiff, which included blows to the head with a pocket stick. Reports introduced into the trial record indicated that these officers gave their written approval to this conduct by Officer Grabowski. Moreover, although notified of the extent of plaintiff's injuries and of his claims of brutalities, the Stamford Police Department undertook no investigation or inquiry whatsoever. No disciplinary action or additional training in the use of a pocket stick was provided to defendant Grabowski. The jury could have inferred that Grabowski's use of the stick conformed to Department policy.

Further confirmation of this pattern of police misconduct and supervisory condonation arose out of another incident involving defendant Ragsdale. In January 1975 Officer Ragsdale again struck an unarmed civilian several times in the head with a pocket stick during the course of an arrest. The officer's reports acknowledging this conduct were reviewed and approved by supervisory Stamford police officers, including a duty captain and lieutenant. Again there was no internal investigation into this potentially lethal use of force, and no further training or discipline was provided to the officer involved.

In short, there was evidence of the City of Stamford's direct culpability for hiring defendant Grabowski knowing of his propensity for violence, for failing utterly to train him in the use of the lethal weapon which he employed upon the plaintiff, and

for condoning and authorizing the improper use of a pocket stick in the devastating manner utilized against the plaintiff. At the conclusion of the second phase of the trial, the trial court instructed the jury that it could find the City of Stamford liable only if the City authorized, sanctioned, or ratified unconstitutional action taken by one of its police officers. The trial court further charged that municipal liability would be established if the City's hiring, training and supervision and/or discipline of Officer Grabowski amounted to gross negligence or deliberate indifference leading to the deprivation of the plaintiff's constitutional rights. The jury was told that to be culpable, conduct of the City had to be so gross that the municipality could fairly be considered to have actual knowledge or could reasonably be expected to know that a deprivation of constitutional rights was almost inevitable. The trial judge cautioned the jury that a municipality cannot be held liable for the simple negligent training of its police force, but that a city is fairly considered to have actual or imputed knowledge of the almost inevitable consequences that arise from nonexistent or grossly inadequate training and supervision of a police force. The City of Stamford took no exception to these instructions.

The jury found the City of Stamford liable for improper hiring, training, supervision or discipline of Officer Grabowski resulting in the plaintiff's injuries. In the third phase of the trial, the jury awarded compensatory damages of $115,000.00 and punitive damages of $100,000.00 against the City.[1] On appeal, the punitive award against the City was set aside.

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[1]The jury also returned verdicts against Officer Grabowski for compensatory damages of $7,500.00 and punitive damages of $5,000.00. Officer Grabowski's appeal from the latter award was rejected by the Court of Appeals.

SUMMARY OF ARGUMENT

The decision of the Court of Appeals held only that the evidence contained in the record, evaluated in light of the unchallenged instructions to the jury on the standards of municipal civil rights liability, was sufficient to support the verdict. As such, the decision does not conflict with those of other courts of appeals, but rather is supported by the very decisions upon which the City of Stamford relies. The decision below neither expanded nor contracted the burden of proof in police misconduct litigation against municipalities. It is entirely consistent with prior rulings of the Second Circuit, and of the decision of this Court in *Rizzo* v. *Goode,* 423 U.S. 362 (1976). In short, the City of Stamford solicits delicate decision making by this Court as to the scope of municipal liability for police misconduct, without the benefit of a record fairly raising those issues. The ample evidence of municipal responsibility, coupled with the narrow scope of review required of the Court of Appeals, make this case an inappropriate vehicle for plenary action by this Court. None of the City's arguments to invoke this Court's discretionary review are to the point, and reconsideration of the City's evidentiary claims, which have been rejected both by a jury and by the Court of Appeals, is unwarranted.

ARGUMENT

A. No Conflict Among the Circuits is Presented

The municipal liability issue presented to the Court of Appeals was whether the jury, properly instructed on the applicable legal standards, could reasonably have found the City of Stamford liable for Officer Grabowski's excessive and improper use of force. Because factual determinations are committed to the jury by the Seventh Amendment, appellate courts view the evidence in the light most favorable to the party prevailing before the jury. *Atlantic & Gulf Stevedores* v. *Ellerman Lines, Ltd.*, (1962); *Turpin* v. *Mailet*, 619 F.2d 196, 202 (2d Cir.), *cert. denied sub nom. Turpin* v. *City of West Haven*, 449 U.S. 1016 (1980) (*Turpin* III). Juries are entitled to make all reasonable inferences from the evidence, including inferences as to the existence of an official policy causing deprivation of civil liberties. Turpin III, *supra* at 203; see also, *Samuels* v. *Health and Hospitals Corp.*, 591 F.2d 196, 198 (2d Cir. 1979). Any lawful theory of liability consistent with the jury's verdict is a sufficient basis for rejecting a challenge as to the adequacy of the evidence.

Thus, the Court of Appeals was not required to catalog and weigh all of the evidence supporting the imposition of liability on the City of Stamford. Rather, its Summary Order simply identified one category of evidence which, taken alone, provided a sufficient basis for the verdict. The Court of Appeals determined that the circumstances of the several beatings with pocket sticks by Stamford policemen, in which the officers struck civilians on the head, permitted a jury inference of a culpable policy or custom. In light of the fact that one month prior to the beating of the plaintiff, a senior Stamford police officer articulated a de facto authorization of such conduct by the Department, this ruling is unexceptional. As this Court observed in *Monell* vs. *Department of Social Services*, 436 U.S. 658, 694 (1978), an action or policy by "those whose edicts or acts may fairly be said to represent official policy" is sufficient evidence of municipal conduct to impose §1983 liability.

None of the circuit court decisions cited at pages 6-13 of the City's petition is inconsistent with the Court of Appeal's assessment of the sufficiency of this evidence. On the contrary, many of the decisions relied upon by the City actually support a finding of municipal liability on the facts of the present case. See, e.g. *Powe* v. *City of Chicago,* 664 F.2d 639 (7th Cir. 1981); *Harris* v. *City of Roseburg,* 664 F.2d 1121 (9th Cir. 1981); *Black* v. *Stephens,* 662 F.2d 181 (3d Cir. 1981), *petition for cert. filed, sub nom. Stephens* v. *Black,* 50 U.S.L.W. 3550 (U.S. Jan. 12, 1982) (No. 81-1239); *Herrera* v. *Valentine,* 653 F.2d 1220 (9th Cir. 1981); *Marrero* v. *City of Hialeah,* 625 F.2d 499 (5th Cir. 1980); *McClelland* v. *Facteau,* 610 F.2d 693 (10th Cir. 1979); and *Garner* v. *Memphis Police Department,* 600 F.2d 52 (6th Cir. 1979). Of course, this holding is also authorized by many other decisions. E.g., *Owens* v. *Haas,* 601 F.2d 1242 (2d Cir.), *cert. denied, sub nom. County of Nassau* v. *Owens,* 444 U.S. 980 (1979); *Sims* v. *Adams,* 537 F.2d 829 (5th Cir. 1976); *Harris* v. *Chanclor,* 537 F.2d 203 (5th Cir. 1976); *Popow* v. *City of Margate,* 476 F.Supp. 1237 (D.N.J. 1979); *Leite* v. *City of Providence,* 463 F.Supp. 585 (D.R.I. 1978); and *Moon* v. *Winfield,* 368 F.Supp. 843 (N.D. Ill. 1973).

Moreover, this case presented *more* evidence of direct municipal responsibility for the police officer's misconduct than the Second Circuit Court of Appeals found sufficient in *Turpin III* and *Owens* v. *Haas,* two decisions which this court declined to review on certiorari.

The issue of authorization, approval or encouragement of unconstitutional misconduct by a municipality's supervisory officers "is generally one of fact, not law." *Turpin* III, at 201. On the record, there was ample basis for the jury to come to the factual conclusion it reached, and the City of Stamford should not now be permitted to escape liability upon claims of law which it elected not to pursue at the trial.

B. No Conflict Exists Between the Decision Below and *Rizzo* v. *Goode.*

The petition claims that the decision of the Court of Appeals is inconsistent with this Court's ruling in *Rizzo* v. *Goode, supra.* That claim is without merit. In *Rizzo,* a district court granted sweeping injunctive relief under 42 U.S.C. §1983 against a police department premised upon unconstitutional conduct by police officers who were not parties to the action directed against particular individuals, only a few of whom were parties. This Court determined that injunctive relief of the type requested should not be granted unless there is an affirmative link between a plan or policy by the municipal defendants and the incidents of police misconduct. *Rizzo* did not discuss or in any way limit the availability of damages to a plaintiff unquestionably injured by police misconduct, nor did it exonerate from liability for damages municipalities which proximately caused police misconduct.

Indeed, in the present case, the jury found an affirmative link between the policy and custom of the Stamford Police Department and the beating of the plaintiff. The Court of Appeals confirmed that finding of causation. The City's claims to the contrary are simply not supported by the record, and are not a suitable basis for exercising discretionary review by this Court.

C. The Decision Below Does Not Raise New Questions of Federal Law.

Because the Court of Appeals was called upon to assess only the legal sufficiency of the evidence to support the verdict, it resolved no new issues of federal law. The City of Stamford now attempts to convert the silence of the Summary Order by the Court of Appeals into rulings on issues not presented to the Court for decision.

The use of a summary order by an appellate court, though mystifying to litigants and disappointing to counsel, does not alter the fundamental rights of the parties. The factual issues of

this brutality action were resolved by a Connecticut jury after 12 days of trial, and by the Court of Appeals after plenary briefing and argument. This Court's articulation of the impact of *Monell* upon police misconduct litigation should await a case in which a contest over the applicable legal standards is squarely presented by the record.

CONCLUSION

For the foregoing reasons, the petition for a writ of certiorari to review the judgment of the United States Court of Appeals for the Second Circuit should be denied.

Respectfully submitted,

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May 5, 1982

Petitioner's Reply Brief

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No. 81-1803

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1981

CITY OF STAMFORD,

Petitioner,

v.

THEODORE IEVA,

Respondent.

ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

PETITIONER'S REPLY BRIEF

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PETITIONER'S REPLY BRIEF

ARGUMENT

I.

THE EVIDENCE OFFERED AT TRIAL WAS INSUFFICIENT TO ESTABLISH THE EXISTENCE OF ANY ENTITY "POLICY OR CUSTOM", THE REQUIRED LEVEL OF ENTITY CULPABILITY, OR A CAUSAL LINK BETWEEN ANY ENTITY ACTION, OR INACTION, AND THE ARREST OF THEODORE IEVA.

The pivotal issue raised by the Brief in Opposition is whether the evidence was sufficient to sustain the verdict rendered. The verdict must be supported by proof which

establishes all of the elements of the cause of action sufficiently to remove them from conjecture or surmise. *Armstrong v. Commerce Tankers Corp.*, 423 F.2d 957 (2d Cir.), *cert. denied*, 400 U.S. 833 (1970). The jury may, within reasonable limits, draw inferences, provided the evidence supports the same. *Turpin v. Mailet*, 619 F.2d 196, 203 (2d Cir.), *cert. denied, sub nom. Turpin v. City of West Haven*, 449 U.S. 1016 (1980) (*Turpin III*). The question of whether or not the evidence was sufficient to create an issue of fact for the jury is one of law, to be decided by the court. *United States ex rel. Weyerhaeuser Co. v. Bucon Construction Co.*, 430 F.2d 420 (5th Cir. 1970).

Cast against this legal background, Theodore Ieva's assertions must be scrutinized. As this matter went to the jury, the issue was whether or not the evidence would permit the jury to find, or infer, the existence of any municipal policy or custom, gross negligence, or deliberate indifference to the constitutional rights of Theodore Ieva, in the hiring, training, supervision, or discipline of Thomas Grabowski, a police officer, which was causally linked to the arrest on January 7, 1974, and which produced the complained-of deprivations. The City of Stamford, Connecticut (hereinafter referred to as "the City") contends the proof was insufficient.

At the outset, it is essential to identify those who are policy-level officials of the City, with respect to its police department. *Bowen v. Watkins*, 669 F.2d 979, 989 (5th Cir. 1982). *See*, Peters, *Municipal Liability After Owen v. City of Independence and Maine v. Thiboutot*, 13 Urb. Law. 407, 411 (1981) (hereinafter cited as Peters); Schnapper, *Civil Rights Litigation After Monell*, 79 Colum. L. Rev. 213, 217-23 (1979) (hereinafter cited as Schnapper).

Section 580 of the Charter of the City (9a) clearly demonstrates that as to the hiring of police officers, the Police Commission is the City's policy-level organ. It is noteworthy that the members of this Commission were sued individually, and each obtained a directed verdict in his favor, which verdicts have not been challenged on appeal.

By way of contrast, neither the Police Chief, whose powers are delineated in Section 430 of the Charter (8a), nor any other supervisory police official, were named as defendants. Whether or not the City's liability, and that of its officers, is always coextensive, is an open question. If the liability is not identical, visiting liability on the entity for their actions appears to contravene this Court's holding that § 1983 governmental liability may not be founded upon *respondeat superior* concepts.

The hiring claims focused solely upon a psychological screening report as to Officer Grabowski, which, it is alleged, reflected a propensity for the improper use of force. The report concluded that Officer Grabowski was acceptable for employment as a police officer. The testing psychologist testified that he did not believe his subject was prone to the use of, had a propensity for, or characteristically resorted to, the use of physical violence. The City contends it ought not be charged with a duty of challenging, or questioning, the conclusions of experts retained to provide opinions based upon pre-hiring screening.

In order to be held liable on the hiring claim, the evidence must establish the policy-level body, having the exclusive power to hire police officers; namely, the Police Commission, had knowledge of the psychological screening report, prior to the appointment of the officer. This is mandatory in connection with foreseeability

elements of this claim. *Herrera v. Valentine,* 653 F.2d 1220, 1224-25 (8th Cir. 1981). *See, Martinez v. State of California,* 444 U.S. 277 (1980); *Davis v. Casey,* 493 F. Supp. 117 (D. Mass. 1980); Peters, at 418-19, 436-37; Schnapper, at 237.

No evidence was offered to show that the psychological screening report in question ever came to the attention of the Police Commission, or to identify those City employees who possessed any knowledge of the report. The City contends that this fault in the proof is fatal to any claims stemming from the hiring of Officer Grabowski.

The City submits that the jury could not properly find, or infer, any policy of the City, as to hiring police officers, based upon the evidence as to the hiring of a single such employee. *See, Berry v. McLemore,* 670 F.2d 30 (5th Cir. 1982); *Singleton v. City of New York,* 632 F.2d 185 (2d Cir. 1980); *Turpin,* 619 F.2d, at 202; *Owens v. Haas,* 601 F.2d 1242 (2d Cir.), *cert. denied, sub nom. County of Nassau v. Owens,* 444 U.S. 980 (1979). The high level of entity culpability required, where liability is asserted in connection with the hiring of law enforcement personnel, is reflected in *Smith v. Hill,* 510 F. Supp. 767 (D. Utah 1981). The proof here failed to meet this stringent standard.

Claims are also advanced founded on the training of Officer Grabowski, and the contention that he received no instruction in the use of a so-called "pocket stick".

In Connecticut, the training of municipal police officers is governed by statute. Conn. Gen. Stat. §§ 7-294a through 7-294e (1a). These statutes create a Municipal Police Training Council, which is given the power to establish a required course of study, to set the minimum requirements of the training program for newly

appointed police officers, and to certify those who successfully complete the program.

The Council, pursuant to powers conferred upon it, adopted Regulation 7-294e-3 (6a) prescribing a program of 160 hours of classroom instruction, plus a period of 40 hours of supervised field training, or a total program of 200 hours of instruction. Evidence was introduced that this program was in effect at the time of Officer Grabowski's appointment, and that he successfully completed the same.

The curriculum for the course of instruction and training was offered in evidence, demonstrating that training was provided, in the use of the nightstick, and the blackjack, under the caption of "Defensive Tactics and Techniques & Mechanics of Arrest" (16a). Testimony established that the techniques for the use of the nightstick, and the pocket stick, were substantially the same. The City contends that instruction as to a blackjack would also apply to a pocket stick, since no practical difference between the two exists.

Evidence was also offered to establish that the City afforded twice the minimum supervised field training mandated by the state law, during which additional nightstick instruction was provided. Testimony was also introduced, and never controverted, that the nightstick and the pocket stick are substantially similar, the pocket stick being somewhat shorter; that the techniques for their use were the same; and, that training in use of the nightstick was sufficient to cover the use of the pocket stick. To succumb to the Ieva argument, differentiating the training in these several weapons is to permit a serious constitutional issue to turn on a few inches of wood.

The City submits that the training of its police force was conducted under policies established by the State of Connecticut, rather than policies of the City, and that it should not be answerable for the same.

Cases dealing with the training of law enforcement officers, including, *Hays v. Jefferson County, Ky.*, 668 F.2d 869, 873-74 (6th Cir. 1982); *Wilson v. Beebe*, 612 F.2d 275 (6th Cir. 1980); *Smith*; *Jones v. City of Philadelphia*, 491 F. Supp. 284 (E.D. Pa. 1980); *Edmonds v. Dillin*, 485 F. Supp. 722 (N.D. Ohio 1980); *Popow v. City of Margate*, 476 F. Supp. 1237 (D. N.J. 1979); *Leite v. City of Providence*, 463 F. Supp. 585 (D. R.I. 1978), require a high level of entity culpability before liability is imposed. The facts here fall far short of this standard.

A preferred approach to this entire issue, the City urges, is that adopted in *Landrigan v. City of Warwick*, 628 F.2d 736, 745-47, n.7, 8 (1st Cir. 1980), and *McClelland v. Facteau*, 610 F.2d 693, 697 (10th Cir. 1979), where the court concluded that, if no policy of mistreatment of the citizenry, in general, is established, the need to determine whether or not grossly inadequate police training might give rise to § 1983 entity liability is obviated.

Assertions are made that the City ought to be held liable as a result of the level of supervision of Officer Grabowski. Following his appointment, he underwent a one year period of probationary service, in conformity with Section 735(5) of the Charter (10a). Evidence was offered that, during this probationary period, his performance was evaluated and recorded, his official conduct was satisfactory, and he was found to be of even temper, quiet demeanor, dependable and eager to learn. No complaints were noted. It was conceded that no prior

episodes of use of a pocket stick by this officer had been reported.

The cases on supervision speak, as do those on training, of the requirement for a high degree of entity culpability before imposition of damage awards against municipalities. *See, Berry*; *Doe v. New York City Dep't of Social Services,* 649 F.2d 134 (2d Cir. 1981); *McClelland*; *Smith*; *Jones*; *Popow*; *Leite.* Once again, the facts here do not satisfy the standard.

The extended discussion of liability for inadequate supervision, in *Doe,* at 144-145, is cogent, and, it is submitted, dispositive of this issue, in this case. Elements of knowledge held by policy-level actors, and their relationship to the required causal connection between alleged inadequate supervision, and the complained-of deprivation, were fully explored. No such knowledge existed here, since there had been no previous miscreance by the officer involved.

Contentions are also made that liability should be imposed upon the City, based upon its failure to discipline its police force, and Officer Grabowski.

Insofar as these assertions are based on an alleged pattern of activity, they have been discussed in detail in the petition. To the date of the arrest at issue, the officer involved had no history of excessive force, or other behavior which would warrant any discipline.

One prior episode is argued at length. However, no evidence was offered to show that Officer Grabowski had any knowledge of either the prior episode, or the City's response to the same, or that the same came to the attention of the City's Police Commission. Absent such knowledge, no causal linkage between the prior episode and the present arrest can be established.

The City, based upon the foregoing, argues that the evidence as to hiring, training, supervision and discipline of Officer Grabowski, and the police force in general, was wholly insufficient to establish "gross negligence", deliberate indifference, or to permit the inference of any policy or custom, as would support the imposition of money damage liability upon the City.

II.

SINCE THE MATTERS ARGUED IN RESPONDENT'S BRIEF IN OPPOSITION WERE NOT DECIDED BELOW, NOR RAISED IN THE CROSS-PETITION, THEY ARE BEYOND THE PROPER SCOPE OF REVIEW.

In the Brief in Opposition, respondent raises several factual issues which were neither directly passed upon, nor fully dealt with, by the court below. It has generally been held by this Court that it will not consider questions which were not directly, or fully decided below. *Abbott Laboratories v. Gardner,* 387 U.S. 136 (1967); *United States v. Classic,* 313 U.S. 299 (1941); *Pacific States Box & Basket Co. v. White,* 296 U.S. 176 (1935); *Young v. Masci,* 289 U.S. 253 (1933); *White River Lumber Co. v. Arkansas,* 279 U.S. 692 (1929); *Towar Cotton Mills v. United States,* 270 U.S. 375 (1926); *Savage v. United States,* 92 U.S. 382 (1875).

This view appears reinforced where such issues are not addressed in a cross-petition for certiorari, as is the situation now before the Court. *United States v. Storer Broadcasting Co.,* 351 U.S. 192 (1956); *Polizzi v. Cowles Magazines, Inc.,* 345 U.S. 663 (1953).

The Court has noted that, in an exceptional case, it may act upon questions not fully dealt with below. *Lawn v. United States,* 355 U.S. 339 (1958). The City contends that this case does not justify departure from

the Court's general view. Where issues of law are raised, which do not require an appraisal of the evidence for resolution, they may be considered. *Kiefer-Stewart Co. v. Joseph E. Seagram & Sons, Inc.*, 340 U.S. 211 (1951). Here the matters urged mandate a detailed review of the evidentiary record, and do not present solely questions of law.

Rule 21.1(a) of the Rules of this Court states that only the questions set forth in the petition, or fairly included therein, will be considered by the Court. When issues are presented beyond those included in the petition, they are not properly before the Court. *Namet v. United States*, 373 U.S. 179 (1963); *Lawn*, at 362-63, n.16.

Since the majority of the matters contended for in opposing this petition were neither fully dealt with below, nor raised in the petition, the City claims the same are not now properly before the Court.

CONCLUSION

For the above reasons, and those set forth in the petition herein, it is respectfully requested that this

Honorable Court issue a writ of certiorari to review the judgment of the United States Court of Appeals for the Second Circuit.

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Appendix

APPENDIX A

CONN. GEN. STATS. §§ 7-294a to -294e
(Rev. 1958, as amended)

§ 7-294a. Police training council. Definitions

As used in sections 7-294a to 7-294e, inclusive, "council" means the municipal police training council; "governor" includes any person performing the functions of the governor by authority of the law of this state; "municipality" means any city, town or borough within this state; "police officer" means a member of a regularly organized police department of a municipality, excluding supervisory personnel, who is responsible for the prevention or detection of crime and the enforcement of the general criminal laws of the state and shall include uniformed constables who perform the aforesaid duties full time and constables elected in accordance with the provisions of section 9-200, and members of the special police force for The University of Connecticut at Storrs established under section 10-144c, but shall not include civil officers, or any person serving as such solely by virtue of his occupying any other office or position.

(1965, P.A. 575, § 1; 1969, P.A. 684; 1971, P.A. 571; 1972, P.A. 119, § 2, eff. April 28, 1972.)

§ 7-294b. Members of council. Holding of other office

(a) There shall be a municipal police training council which shall consist of the following members appointed by the governor: (1) A chief administrative officer of a town or city in Connecticut; (2) a member of the faculty of The University of Connecticut; (3) eight members of the educational committee of the Connecti-

cut Chiefs of Police Association who are holding office or employed as chief of police or the highest ranking professional police officer of a regularly organized police department of a municipality within the state. The commissioner of state police and the federal bureau of investigation special agent-in-charge in Connecticut shall be ex-officio members of the council. All members of the council appointed by the governor shall serve for a period of two years, except that, of the members first appointed, the governor shall appoint four members designated in subdivision (3) to serve for a term of one year and four members to serve for a term of two years. The council shall elect from its membership a chairman and a vice chairman who shall each serve for a term of one year. Any member of the council shall immediately upon the termination of his holding the office or employment which qualified him for appointment cease to be a member of said council. A member appointed to fill a vacancy shall be appointed for the unexpired term of the member whom he is to succeed in the same manner as the original appointment. The members of the council shall serve without compensation but shall be entitled to actual expenses involved in the performance of their duties.

(b) Membership on the council shall not constitute holding a public office. No member of the council shall be disqualified from holding any public office or employment by reason of his appointment to or membership on the council nor shall any member forfeit any such office or employment by reason of his appointment to the council, notwithstanding the provisions of any general statute, special act or local law, ordinance or charter.

(1965, P.A. 575, §§ 2, 4.)

§ 7-294c. Annual report

The council shall make an annual report to the gover-

nor which shall include pertinent data regarding the standards established for and the degree of participation in the training program.

(1965, P.A. 575, § 3.)

§ 7-294d. Powers of council

The municipal police training council shall have the following powers:

(a) To approve, or revoke the approval of, any police basic recruit training school conducted by a municipality and to issue certificates of approval to such schools and to revoke such certificates of approval;

(b) to set the minimum courses of study and attendance required and the equipment and facilities to be required of approved municipal police training schools;

(c) to set the minimum qualifications for instructors at approved municipal police training schools, to certify, as qualified, instructors at approved municipal police training schools and to issue appropriate certificates to such instructors;

(d) to set the requirements of minimum basic training which police officers appointed to probationary terms shall complete before being eligible for permanent appointment, such minimum basic training to be completed within one year following the appointment to the probationary term, unless the candidate is granted additional time to complete his training by said council;

(e) to set the requirements of a minimum basic training which police officers not appointed for probationary terms but appointed on other than a permanent basis shall complete in order to be eligible for continued employment or permanent appointment, and the time within which such basic training shall be completed following such appointment on a nonpermanent basis;

(f) to certify police officers who have satisfactorily completed basic recruit training programs and to issue appropriate certificates to such police officers;

(g) to recommend categories or classifications of advanced in-service training programs and minimum courses of study and attendance requirements with respect to such categories or classifications;

(h) to visit and inspect municipal police basic training schools and to inspect each school at least once each year;

(i) to consult with and cooperate with universities, colleges and institutes for the development of specialized courses of study for police officers in police science and police administration;

(j) to consult with and cooperate with departments and agencies of this state and other states and the federal government concerned with police training;

(k) to employ an executive director and such other personnel as may be necessary in the performance of its functions;

(*l*) to perform such other acts as may be necessary and appropriate to carry out the functions of the council as set forth in sections 7-294a to 7-294e, inclusive.

(1965, P.A. 575, § 5; 1967, P.A. 669.)

§ 7-294e. Appointees to police departments to have completed program

Notwithstanding the provisions of any general statute or special act or local law, ordinance or charter to the contrary, no person shall, after October 1, 1966, receive an original appointment on a permanent basis as a police officer of any municipality unless such person has previously been awarded a certificate by the council

attesting to his satisfactory completion of an approved municipal police basic training program; and every person who is appointed on a temporary basis or for a probationary term or on other than a permanent basis as a police officer of any municipality shall forfeit his position as such unless he previously has satisfactorily completed, or within the times set forth by the council satisfactorily completes, a municipal police basic training program for temporary or probationary officers and is awarded a certificate by said council attesting thereto. The municipal police training council may make such regulations as it deems necessary to carry out the provisions of this section, giving due consideration to the varying factors and special requirements of law enforcement agencies, in the same manner as other state agencies, and such regulations shall be binding upon all regularly organized municipal police departments.

(1965, P.A. 575, § 6.)

APPENDIX B

REGULATIONS

Connecticut State Agencies § 7-294e-1 to -3

ORIGINAL APPOINTMENT AND REAPPOINTMENT TO THE PERMANENT POSITION OF POLICE OFFICER

Sec. 7-294e-1. Definition. "Original appointment," as used in section 7-294e of the general statutes and these regulations, means the first appointment of the individual to a permanent position as a police officer in any municipality within the state. (Effective September 12, 1967.)

Sec. 7-294e-2. Eligibility for reappointment. A candidate for reappointment to a permanent position as a police officer in any municipality within the state shall satisfactorily complete an approved municipal police basic training program, except when his original appointment to a similar position was: (1) Within the state of Connecticut, and (2) followed by at least two years of continuous service as a police officer, and (3) interrupted by not more than two years' absence from the police department where originally appointed. In unusual cases, a request for waiver of the requirement of mandatory training may be forwarded by the chief of the police department concerned, to the council, giving all pertinent information. (Effective September 12, 1967.)

Sec. 7-294e-3. Training of appointees to permanent position of police officer. The municipal police basic training program shall consist of one hundred sixty classroom hours, with subjects and subject hours as prescribed by the council, plus a forty-hour program of supervised field training, as described in council

publications, for a total of two hundred hours. (Effective September 23, 1969.)

APPENDIX C

CHARTER

City of Stamford § 430

STAMFORD CODE

Chapter 43. Police Department

Sec. 430. Powers and duties of the police chief.

The police chief shall be responsible for: (1) The administration, supervision and discipline of the police department, and the property, apparatus and equipment thereof; (2) the control of traffic and the making and enforcing of traffic regulations and the installation of lights, signs and other traffic-control devices except parking meters, which shall be installed only on the authorization of the board of representatives; (3) the commitment of any person charged with a criminal offense until an examination can be had before the proper court; (4) he shall have authority to administer oaths and take evidence, affidavits and acknowledgments and to issue subpoenas in all proceedings relating to the police department; and (5) be empowered within the limits of law to organize the police department as he shall deem best for the service.

APPENDIX D

CHARTER

City of Stamford § 580

STAMFORD CODE

Chapter 58. Police Commission and Fire Commission

Sec. 580. Powers and duties of the police commission.

The police commission shall prepare a budget of the police department and supervise its expenditures; it shall make all needful regulations for the government thereof not contrary to law and may prescribe suitable penalties for the violation of any such regulations, including suspension or removal from office of any officer or member of the department. The commission shall have the sole power of appointment, except in the case of the chief of the department, promotion, subject to the rules of the civil service, and removal of the officers and members of the police department, under such regulations as it adopts for the purpose, and such appointees shall hold office during good behavior and until removed for cause upon written charges after hearing. The members of the police department shall have all such authority with respect to the service of criminal process and enforcement of the criminal laws as is vested by the general statutes in police officers. The police commission shall have the power to compensate officers and members of the department for loss of personal property and for medical expenses arising from injuries incurred in the performance of duty. (Referendum, 11-4-1969)

APPENDIX E

CHARTER

City of Stamford § 735(5)

STAMFORD CODE

Sec. 735. Rules and regulations.

The director shall prescribe, amend and enforce rules for the classified service which shall have the force and effect of law after approval by the personnel commission. He shall keep minutes of all proceedings involving the civil service and records of all examinations conducted and shall make investigations concerning the enforcement of this act and of the rules. He shall make an annual report to the mayor and to the personnel commission. The rules shall provide: (1) For the classification of all positions in the classified service and a pay plan for such positions; (2) for open competitive or promotion examinations to test the relative fitness of applicants for such positions; (3) for public advertisement of all examinations at least ten days in advance in at least one newspaper of general circulation and by posting a notice thereof in the town or city hall, in the post office, in the office of any state or United States employment service and in at least three other public places; (4) for the rejection of candidates or eligibles who fail to comply with the reasonable requirements of the personnel commission in regard to age, residence, sex and physical condition, or who have attempted any deception or fraud in connection with an examination; (5) for a working test period not to exceed one year before appointment or promotion is made complete, during which period an appointee may be discharged or reduced to his previous

rating with an examination; (6) for provisional employment without examination; with the consent of the director, in cases of emergency and pending appointment from an eligible list. No such provisional employment shall continue longer than three months, nor shall successive provisional employments be allowed; (7) for transfer from one position to a similar position in the same or similar class or grade, and for reinstatement within one year of persons who without fault or delinquency on their part are separated from the service or reduced in grade or rank; (8) for disciplinary suspensions for not longer than ten days and for leaves of absence; (9) for discharge or reduction in rank after appointment or promotion has become permanent only after the person to be discharged or reduced has been presented with the reasons for such discharge or reduction, specifically stated, and has been allowed a reasonable time to reply thereto in writing. The statement of reasons and the reply shall be filed as a public record with the director; (10) for the appointment of unskilled laborers in the order of priority of applications giving credit for experience after such noncompetitive tests of fitness as the director may prescribe; (11) for the establishment of eligible lists, reemployment lists and service ratings; (12) for promotions based on competitive examinations and records of efficiency, character, conduct, seniority and service ratings. Whenever practicable, vacancies shall be filled by promotion; (13) for rules governing retirement of members in the civil service; (14) for pensions, provided such rules shall be adopted only after authorization and provision thereafter are made by the board of finance and the board of representatives. Nothing herein specifically enumerated shall limit or confine the nature or extent of the rules which may be adopted hereunder in keeping with the spirit of this chapter.

APPENDIX F

CURRICULUM

Connecticut Municipal Police Training Council
Connecticut Police Academy

285 Preston Avenue • Meriden, Connecticut 06450
Telephones: (203) 237-6672 • Hartford 566-2714

I certify that the attached is an outline of the curriculum and hours for each subject that was used in the 80th Basic Recruit Training Session.

/s/ Stephen J. Kelly
Director of Training
Municipal Police Training Council

Subscribed and sworn to before me on this 9th day of September, 1980.

/s/ Richard M. Hannon
Notary Public
New Haven County, Conn.

Subjects Mandated	*Hours*
Laws of Arrest	20
Rules of Evidence	8
Criminal Law	20
Motor Vehicle Law	20
Accident Investigation	15
Criminal Investigation	10

	Hours
Firearms Training	16
Courts and Court Procedures	3
Traffic Direction and Control	3
Civil Rights	2
Narcotics	3
Public Relations	2
First Aid	10
Defensive Tactics, and Techniques & Mechanics of Arrest	6
Communications	2
Fingerprinting	2
Report Writing	4
Jurisdiction of Federal Agencies	3
Juvenile Delinquency	2
Childbirth	1
Mental Health	2
Ethics	1
Notetaking	1
Examinations	4
	160 Total
Plus:	
Supervised Field Training	40
	200 Hours

Mandat[illegible] Basic Recruit Training Curriculum
For Municipal Police Officers
State of Connecticut

	Hours
Laws of Arrest	20

Legal requirements. Powers of arrest of police

officers of Connecticut. Summons; warrants; subpoenas; writs; searches and seizures; Constitutional limitations. *Hours*

Rules of Evidence 8

Rules governing admissibility of evidence in State and Federal courts.

Criminal Law 20

State statutes; definitions and interpretations; court decisions; practical application; federal laws.

Motor Vehicle Law 20

State Motor Vehicle Laws; Attorney General Rulings; State Traffic Commission Regulations; Public Utility Commission Regulations.

Accident Investigation 15

Procedure in all types of accidents. Accident report form. Taking of statements. Sketch maps and measurements. Investigation of simulated accidents. Critique reports of simulated accidents investigated.

Films: 1. Questioning Drivers and Witnesses at Accident Scene

2. Hit & Run Investigation

Criminal Investigation 10

The techniques of detective work. Types of crimes and methods of investigations. Collection, identification and preservation of evidence so as to be admissible in court.

Taking of necessary notes. Chain of evidence. *Hours*

Films: 1. Evidence

2. Crime Scene Search

Firearms Training 16

Basic instruction in use of service revolver. Safety rules. Instruction of "bullseye" off-hand shooting and Practical Pistol Course. Qualification with service revolver. Instruction in use of Thompson sub-machine gun, shotgun, rifle and gas equipment.

Films: 1. Single Action Shooting

2. Double Action Shooting

Courts and Court Procedures 3

Organization of courts; jurisdiction and venue; court procedures; the officer in court, presentation of testimony, dress and demeanor.

Film: The Traffic Officer in Court

Traffic Direction and Control 3

Point control of traffic; proper way to direct traffic by uniform signals and gestures. Patrol techniques. Stopping violators. Blockades.

Film: Signals & Gestures

Civil Rights 2

State and Federal laws. Constitutional guarantees of basic rights. Recent conepts of U.S. Supreme Court

Narcotics 3

Problems concerning use of drugs. Identification of drugs. Techniques of identifying drug

addicts and "pushers." Gathering evidence and making arrests. *Hours*

Public Relations 2

Public relation values in everyday contact with the public. Handling complainant, witnesses and others in official capacity and informal contacts. Relations with law violator, news media and other agencies.

First Aid 10

Standard First Aid Course, American Red Cross.

Film: First Aid

Defensive Tactics, and Techniques & Mechanics of Arrest 6

Most effective way to take control of adversary with minimum danger to officer. Disarming techniques, come-along holds, judo, use of nightstick, blackjack and claw. Taking non-cooperating violator out of motor vehicle.

Films: 1. Defensive Tactics

2. Arrest

Communications 2

Use of radio, car and station. Federal Communications Regulations. Use of teletype, telephone call boxes and telephone; telephone courtesy.

Fingerprinting 2

Theory involved and practical taking of fingerprints by officer. Necessary information on fingerprint card.

Hours

Report Writing 4

Basic elements of a good report. Requirements of a complete report; accuracy, brevity and completeness. Usage of mechanical equipment; i.e., typewriters, dictating machines, etc.

Jurisdiction of Federal Agencies 3

Explanation of Federal Law Enforcement agencies; what their duties consist of. How they work with local and State enforcement agencies

Juvenile Delinquency 2

Laws pertaining to juveniles; handling of juveniles, interrogation; reports; records; detention; Juvenile Court.

Childbirth 1

What to do when birth is imminent. How to handle baby born before getting to hospital.

Film: Childbirth

Mental Health 2

How to handle mentally disturbed people.

Films: 1. Booked for Safe Keeping

2. Cry for Help

Ethics 1

Standards of personnel; moral values and duties; public image. "Law Enforcement Code of Ethics."

		Hours
Notetaking		1
	How to take notes. Importance of notes for finished reports and for testifying in courts. Original notes for court use.	
Examinations	Weekly examinations	4
	Total Hours	160